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HOUSE BILL 611

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY
Mimi Stewart

AN ACT

RELATING TO PROPERTY LAW; AMENDING THE DEFINITION OF "SOLAR COLLECTOR" IN THE SOLAR RIGHTS ACT; INVALIDATING RESTRICTIONS ON THE INSTALLATION OR USE OF SOLAR COLLECTORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 3, Article 18 NMSA 1978 is enacted to read:

"[NEW MATERIAL] LIMITATION OF COUNTY AND MUNICIPAL RESTRICTIONS ON SOLAR COLLECTORS.--A county or municipality shall not restrict the installation of a solar collector as defined pursuant to the Solar Rights Act except for historic preservation purposes. Historic preservation restrictions may be permitted if they allow for the placement of sufficient solar collectors to collect at least twenty-five thousand British thermal units of energy on the property. Visual

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 barriers made of materials matching the visible fascia or roof
2 of the structure to prevent a direct line-of-sight view from a
3 public street may be permitted as a means of achieving
4 compliance with historic district regulations."

5 Section 2. Section 47-3-1 NMSA 1978 (being Laws 1977,
6 Chapter 169, Section 1) is amended to read:

7 "47-3-1. SHORT TITLE.--~~[This act]~~ Sections 47-3-1 through
8 47-3-5 NMSA 1978 may be cited as the "Solar Rights Act"."

9 Section 3. Section 47-3-3 NMSA 1978 (being Laws 1977,
10 Chapter 169, Section 3) is amended to read:

11 "47-3-3. DEFINITIONS.--As used in the Solar Rights Act:

12 A. "passive means" means a device that is designed
13 as a solar collector, such as a trombe wall, and that is not
14 merely a normal part of a structure, such as a window;

15 ~~[A.]~~ B. "solar collector" means [any] a device,
16 substance or element or combination of devices, substances or
17 elements [which rely] that relies upon sunshine as an energy
18 source [and which are capable of collecting not less than
19 twenty-five thousand Btu's on a clear winter solstice day. The
20 term also includes any substance or device which collects solar
21 energy for use] that may be separate from, attached to or serve
22 as a structural member or part of a structure and that is
23 designed for use, whether by active or passive means, in:

24 (1) the heating or cooling of a structure or
25 building;

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underscoring material = new
[bracketed material] = delete

- 1 (2) the heating or pumping of water;
- 2 (3) industrial, commercial or agricultural
- 3 processes; [or]
- 4 (4) the generation of electricity

5 ~~[A solar collector may be used for purposes in addition to the~~
6 ~~collection of solar energy. These uses include, but are not~~
7 ~~limited to, serving as a structural member or part of a roof of~~
8 ~~a building or structure and serving as a window or wall; and];~~
9 or

- 10 (5) the provision of light; and

11 [B-] C. "solar right" means a right to an
12 unobstructed line-of-sight path from a solar collector to the
13 sun, which permits radiation from the sun to impinge directly
14 on the solar collector."

15 Section 4. A new section of the Solar Rights Act is
16 enacted to read:

17 "[NEW MATERIAL] RESTRICTIONS ON SOLAR COLLECTORS INVALID--
18 EXCEPTION.--

19 A. A covenant, restriction or condition contained
20 in a deed, contract, security agreement or other instrument
21 affecting the transfer, sale or use of, or an interest in, real
22 property that effectively prohibits the installation or use of
23 a solar collector is void and unenforceable.

24 B. A deed, contract, security agreement or other
25 instrument affecting the transfer, sale or use of, or an

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1 interest in, real property entered into before July 1, 2007 is
2 not subject to the provisions of Subsection A of this section."

3 Section 5. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2007.